

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER  
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION NO : 23394 of 2004**

Between:

A. Anitha D/o Punnarao,

Aged about 24 years,

Faor Price shop Business R/o Dintenepadu Village,  
Edlapadu Mandal,  
Guntur District

**..... PETITIONER**

AND

1. The Joint Collector, Guntur
2. Revenue Divisional Officer Narasaraopet Guntur District
3. Mandal Revenue Officer Edlaadu Mandal Guntur District
4. P. Ranga Rao S/o Venkateswarlu, Aged 48 years,  
Private Employee R/o Dintenepadu Village, Edlapadu

Mandal Presently R/o Sannggeethanager Kukatpalli,  
R.R. district

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari calling for records pertaining to impugned order dt 8-12-2004 issued by the 2nd respondent in his proceedings Rc. No. 1881/200-B of the 2nd respondent by quashing it as illegal, arbitrary unconstitutional in violation of

Articles 14, 21 of Constitution of India to the Essential Commodities Act and in violation of principles of natural justice, consequently to suspend the operation of the impugned proceedings of the 2nd respondent in Rc. No. 1881/200.B dt 8-12-2004.

**Counsel for the Petitioner: MR.P.JAGADISH CHANDRA PRASAD**

**Counsel for the Respondent Nos1 to 3.: GP FOR CIVIL SUPPLIES**

**Counsel for the Respondent No.4:**

**The Court, at the stage of admission, made the following:**

**ORDER:**

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This case presents a peculiar situation. The 4<sup>th</sup> respondent was appointed as dealer of the fair price shop of Dintenpadu Village, Edlapadu Mandal, Guntur District. Proceedings were initiated against him for cancellation of authorization, on the ground that he has resorted to certain irregularities. Ultimately, an order was passed on 19.10.2002 by the 2<sup>nd</sup> respondent, cancelling the authorization. Aggrieved thereby, he preferred an appeal before the 1<sup>st</sup> respondent. The appeal was allowed through orders, dated 07.10.2004. In the meanwhile, petitioner was appointed as dealer for the same fair price shop, on regular basis. Consequent to the order passed by the 1<sup>st</sup> respondent in the appeal preferred by the 4<sup>th</sup> respondent, the 2<sup>nd</sup> respondent passed an order, dated 08.12.2004, cancelling the dealership of the petitioner. The same is challenged in this writ petition.

Learned counsel for the petitioner, Sri P.Jagadish Chandra Prasad, submits that the petitioner was appointed as dealer, after following the concerned procedure, and the same could not have been cancelled, except by following the procedure prescribed under Clause 5 (4) of the A.P. State Public Distribution System Control Order, 2001. He contends that the petitioner was not issued any notice in the appeal preferred by the 4<sup>th</sup> respondent, though she is an affected and aggrieved party. He also submits that the very order passed by the 1<sup>st</sup> respondent is liable to be set aside, and thereby the order passed by the 2<sup>nd</sup> respondent also.

Learned Government Pleader for Civil Supplies and Sri Ganta Rama Rao, appearing for respondent No.4, on the other hand, submits that the appointment of the petitioner was contingent upon the result of the proceedings initiated against the

4<sup>th</sup> respondent, and once the order of cancellation of dealership of the 4<sup>th</sup> respondent is set aside, petitioner has no right to continue as dealer. They also contend that the petitioner has no right to be heard, since she is not an adversary in the proceedings.

The authorization in favour of the 4<sup>th</sup> respondent was cancelled by the 2<sup>nd</sup> respondent and the same was set aside by the 1<sup>st</sup> respondent. Consequent to the same, the 2<sup>nd</sup> respondent cancelled the authorization of the petitioner, who was appointed in the interregnum. It is true that the petitioner was appointed on regular basis and her authorization could not have been cancelled except by following the procedure prescribed under Clause 5 (4) of the Control Order. The petitioner brought about a situation, which, in a way, had disabled her to take such a plea.

The 4<sup>th</sup> respondent filed W.P.No.12204 of 2003, in this Court, complaining that the 1<sup>st</sup> respondent has not passed any orders in the appeal or in the stay petition, though much time has lapsed from the date of filing. Petitioner got herself impleaded in that writ petition. After hearing the concerned parties, this Court disposed of the writ petition with the following observations:

“Be that as it may, now that the 3<sup>rd</sup> respondent has already been appointed and is functioning as a fair price shop dealer, it is directed that the 1<sup>st</sup> respondent shall dispose of the appeal as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order. The appointment of the 3<sup>rd</sup> respondent shall be subject to the outcome of the appeal preferred by the petitioner”.

Once it was made clear in the proceedings, to which the petitioner is a party, that her appointment shall be subject to the outcome of the appeal preferred by the 4<sup>th</sup> respondent, no exception can be taken to the present proceedings. Therefore, this Court is not inclined to interfere with the same.

Petitioner was found eligible to be appointed as a dealer for the fair price shop. But for the orders passed by the 1<sup>st</sup> respondent, she was entitled to continue as fair price shop dealer. Since it has become incompatible for her to function as fair price shop dealer, the 2<sup>nd</sup> respondent is directed to consider the feasibility of appointing the petitioner herein as a dealer for any other shop in the revenue division, but

preferably in the neighbouring villages, at least on temporary basis.

The writ petition is disposed of with the above observation. No order as to costs.

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**L.NARASIMHA REDDY, J**

Dated : 21<sup>st</sup> December, 2004

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To

1. The Joint Collector, Guntur
2. The Revenue Divisional Officer, Narasaraopet,  
Guntur District
3. The Mandal Revenue Officer,  
Edlaadu Mandal, Guntur District
4. 2CCs to the Government Pleader for Civil Supplies, High Court of  
A.P., High Court Buildings, Hyderabad(O.U.T).
5. 2CD copies.